

NEW APPLICATION  
CROCKER & CROCKER  
ATTORNEYS AT LAW  
ORIGINAL



0000121608

PATRICK D. CROCKER  
[patrick@crockerlawfirm.com](mailto:patrick@crockerlawfirm.com)

December 16, 2010

Arizona Corporation Commission  
Utilities Division – Docket Control  
1200 W. Washington Street  
Phoenix, AZ 85007

T-20777A-10-0510

Re: Mosaic Networkx LLC  
Application for a Certificate of Convenience and Necessity to Provide  
Intrastate Telecommunications Services

Dear Sir or Madam:

Enclosed herewith for filing with the Commission, please find an original and thirteen (13) copies of Mosaic Networkx LLC's Application for a Certificate of Convenience and Necessity to Provide Intrastate Telecommunications Services in Arizona.

Also enclosed is a copy of this letter. Please file stamp the letter and return in the postage page self-addressed envelope.

Should you have any questions, please contact me at (269) 381-8893 or [patrick@crockerlawfirm.com](mailto:patrick@crockerlawfirm.com).

Very truly yours,

CROCKER & CROCKER, P.C.

Patrick D. Crocker

PDC/pas

Arizona Corporation Commission  
**DOCKETED**  
DEC 20 2010

DOCKETED BY	NR
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AZ CORP COMMISSION  
DOCKET CONTROL

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**ARIZONA CORPORATION COMMISSION**

**Application and Petition for Certificate of Convenience and Necessity to Provide  
Intrastate Telecommunications Services**

Mail original plus 13 copies of completed application to:

For Docket Control Only:  
(Please Stamp Here)

Docket Control Center  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007-2927

Please indicate if you have current applications pending  
in Arizona as an Interexchange reseller, AOS provider,  
or as the provider of other telecommunication services.

Type of Service: \_\_\_\_\_

Docket No.: \_\_\_\_\_ Date: \_\_\_\_\_ Date Docketed: \_\_\_\_\_

Type of Service: \_\_\_\_\_

Docket No.: \_\_\_\_\_ Date: \_\_\_\_\_ Date Docketed: \_\_\_\_\_

**A. COMPANY AND TELECOMMUNICATION SERVICE INFORMATION**

(A-1) Please indicate the type of telecommunications services that you want to provide in Arizona and mark the appropriate box(s).

- ☐ Resold Long Distance Telecommunications Services (Answer Sections A, B).
- ☐ Resold Local Exchange Telecommunications Services (Answer Sections A, B, C).
- ☐ Facilities-Based Long Distance Telecommunications Services (Answer Sections A, B, D).
- ☒ Facilities-Based Local Exchange Telecommunications Services (Answer Sections A, B, C, D, E)
- ☐ Alternative Operator Services Telecommunications Services (Answer Sections A, B)
- ☒ Other Resold and Facilities-Based IntraLATA and interLATA Private Line Services

(A-2) The name, address, telephone number (including area code), facsimile number (including area code), e-mail address, and World Wide Web address (if one is available for consumer access) of the Applicant:

**Mosaic Networx LLC**  
454 Las Gallinas Avenue, Suite 145  
San Rafael, CA 94903

**Telephone:** (415) 877-1460  
**Facsimile:** (435) 578-9864  
**E-mail:** [twierimaa@mosaicnetworx.com](mailto:twierimaa@mosaicnetworx.com)  
**Website:** [www.mosaicnetworx.com](http://www.mosaicnetworx.com)

(A-3) The d/b/a ("Doing Business As") name if the Applicant is doing business under a name different from that listed in Item (A-2):

**Not applicable**

(A-4) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Management Contact:

**Tom Wierimaa**  
**Vice President of Finance and Regulatory**  
**Mosaic Networx LLC**  
**454 Las Gallinas Avenue, Ste 145**  
**San Rafael, CA 94903**

**Telephone: (415) 877-1460**  
**Facsimile: (435) 578-9864**  
**E-mail: [twierimaa@mosaicnetworx.com](mailto:twierimaa@mosaicnetworx.com)**

(A-5) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Attorney and/or Consultant:

**Patrick D. Crocker**  
**Crocker & Crocker, P.C.**  
**107 W Michigan Avenue, 4<sup>th</sup> Floor**  
**Kalamazoo, MI 49007**

**Telephone: (269) 381-8893**  
**Facsimile: (269) 381-4855**  
**E-mail: [patrick@crockerlawfirm.com](mailto:patrick@crockerlawfirm.com)**

(A-6) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Complaint Contact Person:

**Tom Wierimaa**  
**Vice President of Finance and Regulatory**  
**Mosaic Networx LLC**  
**454 Las Gallinas Avenue, Ste 145**  
**San Rafael, CA 94903**

**Telephone: (415) 877-1460**  
**Facsimile: (435) 578-9864**  
**E-mail: [twierimaa@mosaicnetworx.com](mailto:twierimaa@mosaicnetworx.com)**

(A-7) What type of legal entity is the Applicant? Mark the appropriate box(s) and category.

- ☐ Sole proprietorship
- ☐ Partnership: \_\_\_\_\_ Limited, \_\_\_\_\_ General, \_\_\_\_\_ Arizona, \_\_\_\_\_ Foreign
- ☒ Limited Liability Company: \_\_\_\_\_ Arizona, ☒ Foreign
- ☐ Corporation: \_\_\_\_\_ "S", \_\_\_\_\_ "C", \_\_\_\_\_ Non-profit
- ☐ Other, specify: \_\_\_\_\_

(A-8) Please include "Attachment A":

Attachment "A" must include the following information:

1. A copy of the Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC, or other entity in Arizona.
2. A list of the names of all owners, partners, limited liability company managers (or if a member managed LLC, all members), or corporation officers and directors (specify).
3. Indicate percentages of ownership of each person listed in A-8.2.

(A-9) Include your Tariff as "Attachment B".

Your Tariff must include the following information:

1. Proposed Rates and Charges for each service offered (reference by Tariff page number).
2. Tariff Maximum Rate and Prices to be charged (reference by Tariff page number).
3. Terms and Conditions Applicable to provision of Service (reference by Tariff page number).
4. Deposits, Advances, and/or Prepayments Applicable to provision of Service (reference by Tariff page number).
5. The proposed fee that will be charged for returned checks (reference by Tariff page number).

(A-10) Indicate the geographic market to be served:

- ☒ Statewide. (Applicant adopts statewide map of Arizona provided with this application).
- ☐ Other. Describe and provide a detailed map depicting the area.

(A-11) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any formal or informal complaint proceedings before any state or federal regulatory commission, administrative agency, or law enforcement agency.

**Neither Applicant nor any of its officers, directors, partners, or managers have been or are currently involved in any formal or informal complaint proceedings before any state or federal regulatory commission, administrative agency, or law enforcement agency.**

Describe in detail any such involvement. Please make sure you provide the following information:

1. States in which the Applicant has been or is involved in proceedings.
2. Detailed explanations of the Substance of the Complaints.
3. Commission Orders that resolved any and all Complaints.

Actions taken by the Applicant to remedy and/or prevent the Complaints from re-occurring.

(A-12) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.

**Neither Applicant nor any of its officers, directors, partners, or managers have been or are currently involved in any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.**

Describe in detail any such judgments or convictions. Please make sure you provide the following information:

1. States involved in the judgments and/or convictions.
2. Reasons for the investigation and/or judgment.
3. Copy of the Court order, if applicable.

(A-13) Indicate if the Applicant's customers will be able to access alternative toll service providers or resellers via 1+101XXXX access.

☒ Yes

☐ No

**To the extent Applicant provides basic local exchange services, Applicant's customers will be able to access alternative toll service providers or resellers via 1+101XXXX access.**

(A-14) Is Applicant willing to post a Performance Bond? Please check appropriate box(s).

☐ For Long Distance Resellers, a \$10,000 bond will be recommended for those resellers who collect advances, prepayments or deposits.

☐ Yes

☐ No

If "No", continue to question (A-15).

☐ For Local Exchange Resellers, a \$25,000 bond will be recommended.

☐ Yes

☐ No

If "No", continue to question (A-15).

☐ For Facilities-Based Providers of Long Distance, a \$100,000 bond will be recommended.

☐ Yes

☐ No

If "No", continue to question (A-15).

☒ For Facilities-Based Providers of Local Exchange, a \$100,000 bond will be recommended.

☒ Yes

No

If any box in (A-14) is marked "No", continue to question (A-15).

Note: Amounts are cumulative if the Applicant is applying for more than one type of service.

**While Applicant is willing to post a Performance Bond, Applicant does not believe that a bond should be required because Applicant does not intend to provide telecommunications services to residential customers. Applicant intends to provide telecommunications services to enterprise and carrier customers. As described below, Applicant primarily provides private line, wavelength, Ethernet, and Internet services.**

(A-15) If any box in (A-14) is marked "No", provide the following information. Clarify and explain the Applicant's deposit policy (reference by tariff page number). Provide a detailed explanation of why the Applicant's superior financial position limits any risk to Arizona consumers.

**Applicant's deposit policy can be found on pages 21-22 of the Intrastate Telecommunications Tariff. Applicant does not intend to provide telecommunications services to residential customers.**

(A-16) Submit copies of affidavits of publication that the Applicant has, as required, published legal notice of the Application in all counties where the Applicant is requesting authority to provide service.

Note: For Resellers, the Applicant must complete and submit an Affidavit of Publication Form as Attachment "C" before Staff prepares and issues its report. Refer to the Commission's website for Legal Notice Material (Newspaper Information, Sample Legal Notice and Affidavit of Publication). For Facilities-Based Service Providers, the Hearing Division will advise the Applicant of the date of the hearing and the publication of legal notice. Do not publish legal notice or file affidavits of publication until you are advised to do so by the Hearing Division. To be provided after hearing notification.

(A-17) Indicate if the Applicant is a switchless reseller of the type of telecommunications services that the Applicant will or intends to resell in Arizona:



Yes



No

If "Yes", provide the name of the company or companies whose telecommunications services the Applicant resells.

**Applicant will provide services primarily using facilities leased from other carriers.**

(A-18) List the States in which the Applicant has had an application approved or denied to offer telecommunications services similar to those that the Applicant will or intends to offer in Arizona:

Note: If the Applicant is currently approved to provide telecommunications services that the Applicant intends to provide in Arizona in less than six states, excluding Arizona, list the Public Utility Commission ("PUC") of each state that granted the authorization. For each PUC listed provide the name of the contact person, their phone number, mailing address including zip code, and e-mail address.

**California Public Utilities Commission**

**Richard Fish, 505 Van Ness Avenue, San Francisco, CA 94102**  
**415-703-2782 [rff@cpuc.ca.gov](mailto:rff@cpuc.ca.gov)**

**Nevada Public Utilities Commission**

**Crystal Jackson, 1150 East William Street, Suite 250, Carson City, NV 89701**  
**775-684-6177 [cjackson@puc.nv.gov](mailto:cjackson@puc.nv.gov)**

**New York Public Service Commission**

**Jacklyn Brilling, Three Empire State Plaza, Albany, NY 12223**  
**518-474-7080 [jacklyn\\_brilling@dps.state.ny.us](mailto:jacklyn_brilling@dps.state.ny.us)**

**Applicant has not been denied authority to offer telecommunications services in any jurisdiction.**

(A-19) List the States in which the Applicant currently offers telecommunications services similar to those that the Applicant will or intends to offer in Arizona. **Applicant offers telecommunications services similar to those it intends to offer in Arizona in California, Nevada, and New York.**

Note: If the Applicant currently provides telecommunication services that the Applicant intends to provide in Arizona in six or more states, excluding Arizona, list the states. If the Applicant does not currently provide telecommunications services that the Applicant intends to provide in Arizona in five or less states, list the key personnel employed by the Applicant. Indicate each employee's name, title, position, description of their work experience, and years of service in the telecommunications services industry.

**Resumes of Applicant's key personnel is attached hereto as Exhibit A.**

(A-20) List the names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801.

**Applicant has no affiliates that are authorized to provide telecommunications services in Arizona.**

(A-21) Check here if you wish to adopt as your petition a statement that the service has already been classified as competitive by Commission Decision:

- ☒ Decision # 64178 Resold Long Distance
- ☒ Decision # 64178 Resold LEC
- ☐ Decision # 64178 Facilities Based Long Distance
- ☒ Decision # 64178 Facilities Based LEC

## B. FINANCIAL INFORMATION

(B-1) Indicate if the Applicant has financial statements for the two (2) most recent years.

☒ Yes

☐ No

If "No," explain why and give the date on which the Applicant began operations.

(B-2) Include "Attachment D".

Provide the Applicant's financial information for the two (2) most recent years.

1. A copy of the Applicant's balance sheet.
2. A copy of the Applicant's income statement.
3. A copy of the Applicant's audit report.
4. A copy of the Applicant's retained earnings balance.
5. A copy of all related notes to the financial statements and information.

Note: Make sure "most recent years" includes current calendar year or current year reporting period.

(B-3) Indicate if the Applicant will rely on the financial resources of its Parent Company, if applicable.

**Not applicable.**

(B-4) The Applicant must provide the following information.

**Applicant's business is building communications solutions for large enterprise and carrier customers on an individual case basis for each projects needs. The responses to questions 1 and 2 below therefore, are based on a rough estimate of the projects that Applicant might obtain in the first twelve months of operations.**

1. Provide the projected total revenue expected to be generated by the provision of telecommunications services to Arizona customers for the first twelve months following certification, adjusted to reflect the maximum rates for which the Applicant requested approval. Adjusted revenues may be calculated as the number of units sold times the maximum charge per unit.

**Subject to the qualification above, Applicant projects total revenue of \$5,000 for the first twelve months of providing telecommunications services following certification.**

2. Provide the operating expenses expected to be incurred during the first twelve months of providing telecommunications services to Arizona customers following certification.

**Subject to the qualification above, Applicant projects operating expenses of \$2,500 during the first twelve months of providing telecommunications services following certification.**

3. Provide the net book value (original cost less accumulated depreciation) of all Arizona jurisdictional assets expected to be used in the provision of telecommunications service to Arizona customers at the end of the first twelve months of operation. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list.



**At the end of the first twelve months of operation, Applicant's net book value of all Arizona jurisdictional assets expected to be used in the provision of telecommunications service to Arizona customers is zero (\$0.00)**

4. If the projected value of all assets is zero, please specifically state this in your response.

**The projected value of all assets is zero.**

5. If the projected fair value of the assets is different than the projected net book value, also provide the corresponding projected fair value amounts.

**The current fair value of assets is the same as the current net book value.**

**C. RESOLD AND/OR FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES**

(C-1) Indicate if the Applicant has a resale agreement in operation,

☐

Yes

☒

No

If "Yes", please reference the resale agreement by Commission Docket Number or Commission Decision Number.

**D. FACILITIES-BASED LONG DISTANCE AND/OR FACILITIES BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES**

(D-1) Indicate if the Applicant is currently selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in Arizona. This item applies to an Applicant requesting a geographic expansion of their CC&N:

☐

Yes

☒

No

If "Yes," provide the following information:

1. The date or approximate date that the Applicant began selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in Arizona.
2. Identify the types of facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services that the Applicant sells in Arizona.

If "No," indicate the date when the Applicant will begin to sell facilities-based long distance telecommunications AND/OR facilities-based local exchange telecommunications services in Arizona.

**Applicant will be providing telecommunications services through a combination of its own facilities, facilities leased from other carriers, and through the resale of the facilities of other certificated carriers. Applicant has not yet entered into or requested interconnection/resale agreements in Arizona. The timeframe for providing facilities-based services in Arizona is as soon as commercially possible after the certificate is granted.**

**E. FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES**

(E-1) Indicate whether the Applicant will abide by the quality of service standards that were approved by the Commission in Commission Decision Number 59421:

☒

Yes

☐

No

**To the extent that Applicant provides basic local exchange services, Applicant will abide by the quality of service standards approved in Commission Decision Number 59421.**

(E-2) Indicate whether the Applicant will provide all customers with 911 and E911 service, where available, and will coordinate with incumbent local exchange carriers ("ILECs") and emergency service providers to provide this service:

☒

Yes

☐

No

**To the extent that Applicant provides basic local exchange services, Applicant will provide all customers with 911 and E911 services, where available, and will coordinate with ILEC and emergency service providers to provide this service.**

(E-3) Indicate that the Applicant's switch is "fully equal access capable" (i.e., would provide equal access to facilities-based long distance companies) pursuant to A.A.C. R14-2-1111 (A):

☒

Yes

☐

No

**To the extent Applicant deploys its own switch, it will be fully equal access capable.**

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county, and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona state law including the Arizona Corporation Commission Rules. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.

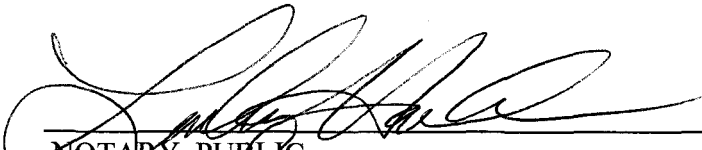
  
(Signature of Authorized Representative)

December 6, 2010  
(Date)

Tom Wierimaa  
(Print Name of Authorized Representative)

Vice President of Finance and Regulatory  
(Title)

SUBSCRIBED AND SWORN to before me this 6 day of December, 2010

  
NOTARY PUBLIC

My Commission Expires 1-21-2013



## **ATTACHMENT A**

Attachment "A" includes the following information:

1. A copy of the Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC, or other entity in Arizona.
2. A list of the names of all owners, partners, limited liability company managers (or if a member managed LLC, all members), or corporation officers and directors (specify).
3. Indicate percentages of ownership of each person listed in A-8.2.

**Applicant's members and percentage ownership are as follows:**

<b>Brian Erickson</b>	<b>Member</b>	<b>68% ownership</b>
<b>Matt Hiles</b>	<b>Member</b>	<b>24% ownership</b>

# STATE OF ARIZONA



## Office of the CORPORATION COMMISSION

### CERTIFICATE OF REGISTRATION

To all to whom these presents shall come, greeting:

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that

**\*\*\*MOSAIC NETWORKX LLC\*\*\***

a foreign limited liability company organized under the laws of the jurisdiction of Delaware did obtain a Certificate of Registration in Arizona on the 15th day of November 2010.

This certificate relates only to the legal authority of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 17th Day of November, 2010, A. D.



Executive Director

By: 

**APPLICATION FOR REGIST  
OF A FOREIGN LIMITED LIABILITY COMPANY**  
Pursuant to A.R.S. §29-802

1. The company name must contain an ending which may be "limited liability company," "limited company," or the abbreviations "L.L.C.", "L.C.", "LLC" or "LC". If you are the holder or assignee of a trade name, attach a copy of the trade name certificate. If your name is not available for use in Arizona, you must adopt a fictitious name and provide a resolution adopting the fictitious name. The resolution must be signed by a member or by a manager, whichever is applicable.

2. Provide the name of the state or country under whose laws your company was formed.

3. Provide the date on which your company was formed or organized in the state or country of formation.

4. Provide the general character of business you plan to transact in Arizona.

5. The statutory agent must provide a street address. If statutory agent has a P.O. Box, then they must also provide a street address/location.

1. The name of the foreign limited liability company is:

MOSAIC NETWORKX LLC

1. a. If the exact name of the foreign limited liability company is not available for use in this state or does not meet the requirements of A.R.S. § 29-602, then the fictitious name adopted for use by the limited liability company in Arizona is:

\_\_\_\_\_(FN)\_\_\_\_\_

2. The company is organized under the laws of: Delaware

\_\_\_\_\_(State or Country)\_\_\_\_\_

3. The date of the company's formation is: October 24, 2008

4. The purpose of the company or the general character of business it proposes to transact in Arizona is:  
Telecommunications reseller

5. The name and street address of the statutory agent for the foreign limited liability company in Arizona is:

Hubert E. Kelly

3035 East Weldon

Phoenix, AZ 85016

**ACCEPTANCE OF APPOINTMENT BY STATUTORY AGENT**

The agent must consent to the appointment by signing the consent.

I, Hubert E. Kelly, having been designated to act as  
(print name)  
statutory agent, hereby consent to act in that capacity until removed or resignation is submitted in accordance with the Arizona Revised Statutes.

Hubert E. Kelly  
Signature

If signing on behalf of a company, print company name here

**AZ CORPORATION COMMISSION  
FILED**

6. Check A or B to show which management structure will be applicable to your company. Provide name and address for each person, and check whether they are member, manager, or both.

7. If the state or country of formation does not require an address to be maintained, provide the street address of the statutory agent in the state or country of formation.

The application must be signed by a member or manager, as applicable, or by a duly authorized agent.

Attach a certificate of existence or document of similar import duly authenticated within 60 days of its delivery to the A.C.C. by the official having custody of corporate records in the state or country under whose laws the LLC is formed.

6. Management Structure (check A or B):

A ☐ Management of the limited liability company is vested in a manager or managers. Give the name and address of each and every manager AND of each and every member who owns a twenty percent or greater interest in the capital or profits of the limited liability company, and check off member and/or manager.

Name: \_\_\_\_\_ Name: \_\_\_\_\_  
[ ] member [ ] manager [ ] member [ ] manager  
Address: \_\_\_\_\_ Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_  
[ ] member [ ] manager [ ] member [ ] manager  
Address: \_\_\_\_\_ Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

B ☒ Management of the limited liability company is reserved to the members.  
Give the name and address of each and every member.

Name: Brian Erickson Name: Matt Hiles  
Address: 454 Las Gallinas Avenue Address: 454 Las Gallinas Avenue  
Suite 145 Suite 145

City, State, Zip: San Rafael, CA 94903 City, State, Zip: San Rafael, CA 94903

Name: \_\_\_\_\_ Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Address: \_\_\_\_\_

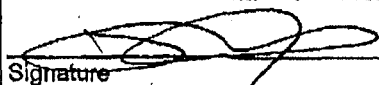
City, State, Zip: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

7. Give the address of the office required to be maintained in the state or country of formation.

c/o Corporation Service Company

2711 Centerville Road, Suite 400, Wilmington, DE 19808

Signed this 3 day of NOV 2010



THOMAS WIERMAS  
Print Name (check one) ☒ Member ☐ Manager ☐ Authorized Agent

PHONE: 415-577-3855 FAX: 312 854 1051

## **ATTACHMENT B**

Tariff is included as "Attachment B".

Tariff includes the following information:

1. Proposed Rates and Charges for each service offered (reference by Tariff page number). **Service will be provided on an individual case basis.**
2. Tariff Maximum Rate and Prices to be charged (reference by Tariff page number). **Pages 42-43**
3. Terms and Conditions Applicable to provision of Service (reference by Tariff page number). **Pages 8-37**
4. Deposits, Advances, and/or Prepayments Applicable to provision of Service (reference by Tariff page number). **Pages 21-22**
5. The proposed fee that will be charged for returned checks (reference by Tariff page number).



RATES, RULES AND ADMINISTRATIVE REGULATIONS  
FOR FURNISHING  
INTRASTATE TELECOMMUNICATIONS SERVICES  
WITHIN THE STATE OF ARIZONA

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Issued:

Effective:

Issued By: Tom Wierimaa, VP Finance and Regulatory  
Mosaic Networx, LLC  
454 Las Gallinas Avenue, Suite 145  
San Rafael, CA 64903

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CHECK SHEET

The sheets of this tariff are effective as of the date shown. The original and revised sheets named below contain all changes from the original tariff and are in effect on the date shown.

<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>
1	Original	26	Original		
2	Original	27	Original		
3	Original	28	Original		
4	Original	29	Original		
5	Original	30	Original		
6	Original	31	Original		
7	Original	32	Original		
8	Original	33	Original		
9	Original	34	Original		
10	Original	35	Original		
11	Original	36	Original		
12	Original	37	Original		
13	Original	38	Original		
14	Original	39	Original		
15	Original	40	Original		
16	Original	41	Original		
17	Original	42	Original		
18	Original	43	Original		
19	Original				
20	Original				
21	Original				
22	Original				
23	Original				
24	Original				
25	Original				

\* New or Revised Page

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Issued:

Effective:

Issued By: Tom Wierimaa, VP Finance and Regulatory  
Mosaic Networx, LLC  
454 Las Gallinas Avenue, Suite 145  
San Rafael, CA 64903

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Issued:

Effective:

Issued By: Tom Wierimaa, VP Finance and Regulatory  
Mosaic Networx, LLC  
454 Las Gallinas Avenue, Suite 145  
San Rafael, CA 64903

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## TARIFF FORMAT

- A. Page Numbering** - Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added.
- B. Page Revision Numbers** - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Department. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of the various suspension periods and deferrals the Department follows in its tariff approval process, the most current page number on file with the Department is not always the tariff page in effect. Consult the check sheet for the page currently in effect.
- C. Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2
  - 2.1
  - 2.1.1
  - 2.1.1.A
  - 2.1.1.A.1
  - 2.1.1.A.1.(a)
  - 2.1.1.A.1.(a).I
  - 2.1.1.A.1.(a).I.(i)
  - 2.1.1.A.1.(a).I.(i).(1)
- D. Check Sheets** - When a tariff filing is made with the Department an updated check sheet accompanies the filing. The check sheet lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There shall be no other symbols used on this page if these are the only changes made to it. The tariff user should refer to the latest check sheet to find out if a particular page is the most current on file with the Department.

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### EXPLANATION OF SYMBOLS

Changes to this tariff shall be identified on the revised page(s) through the use of symbols. The following are the only symbols used for the purposes indicated below:

- (C) To signify changed regulation.
- (D) To signify discontinued rate or regulation.
- (I) To signify an increase.
- (M) To signify matter relocated without change.
- (N) To signify new rate or regulation.
- (R) To signify reduction.
- (S) To signify reissued matter.
- (T) To signify change in text but no change in rate or regulation.
- (Z) To signify a correction.

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## **SECTION 1 - TERMS AND ABBREVIATIONS**

Individual Case Basis (ICB) - A service arrangement in which the regulation, rates, and charges are developed based on the specific circumstances of the case.

LATA - A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the NATIONAL EXCHANGE CARRIER ASSOCIATIONS, Inc. Tariff F.C.C. No. 4.

Multiplexing - The act of combining a number of individual message circuits for transmission over a common transmission path.

Multiplexing Hub - A Company designated central office at which the multiplexing functions are to channelize analog or digital facilities to individual services requiring a lower capacity or bandwidth.

Network - Refers to the Company's facilities, equipment, and services provided under this Tariff.

Private Line Service - Provides DS3 and optical SONET (OC-N) circuits which are specifically dedicated to Customer's used between two (2) points specified by the Company and Customer in a Service Order.

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**SECTION 1 - TERMS AND ABBREVIATIONS (Cont'd)**

Service Commencement Date - The first date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and the Customer may mutually agree on a substitute Service Commencement Date. If the Company does not have an executed Service Order from a Customer, the Service Commencement Date will be the first date on which the service or facility was used by a Customer.

Served Direct Intraexchange Channel - A path for digital transmission between the customer's premises located on the same cable feeder route, less than 3,500 cable feet apart, and having no central office connection.

Service Order - The written request for dedicated services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligation of the parties as set forth therein and pursuant to this tariff, but the duration of the service is calculated from the Service Commencement Date. Should a Customer use the Company's dedicated service without an executed Service Order, the Company will then request the Customer to submit a Service Order.

Shared - A facility or equipment system or subsystem that can be used simultaneously by several Customers.

User - A Customer, joint user, or any other person authorized by a Customer to use service provided under this tariff.

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## SECTION 2 - RULES AND REGULATIONS

### 2.1 Application of Tariff

- 2.1.1 This tariff contains the regulations and rates applicable to dedicated telecommunications services provided by the Company to business customers only. The services described in this tariff are not offered to residential customers.

This tariff applies only to the extent that services provided hereunder are used by a Customer for the purpose of originating, terminating, or completing intrastate communications. A communication is "intrastate" only if all points of origination and termination are located within the State.

### 2.2 Scope

The Company undertakes to furnish dedicated services in accordance with the terms and conditions set forth in this Tariff. The provision of service under this tariff shall not create a partnership or joint venture between the Company and Customer.

### 2.3 Shortage of Equipment and Facilities

All service is subject to the availability of suitable facilities and where the Company can secure acceptable arrangements with underlying suppliers (for resold services). The Company may deny service, limit the length of service, or discontinue furnishing services when necessary because of the lack of acceptable transmission medium capacity, the unavailability of equipment and facilities, or because of any causes beyond its control.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.4    Terms and Conditions**

- 2.4.1    Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this Tariff, a month is considered to have 30 days.
  
- 2.4.2    Services requested by a Customer under this tariff shall be requested on service order forms ("Service Orders") in effect from time to time, which shall contain or reference this tariff, the name of the Customer, a specific description of the service ordered and applicable bandwidth, the requested start date ("Requested Start Date"), the rates to be charged, the duration of the services, and the terms and conditions in this Tariff. Customers will also be required to execute any other documents as may be reasonable requested by the Company, which may supplement the terms and conditions contained in this Tariff.
  
- 2.4.3    The Company will make reasonable efforts to meet a Customer's Requested Start Date. In the event that a Requested Start Date is altered, Customer's Requested Start Date will be changed to reflect the number of days of delay or advance, as appropriate (the "Actual Start Date").

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)****2.4 Terms and Conditions (cont'd)**

- 2.4.4 The Company's standard service implementation interval for services provided on the Company's owned and operated facilities is forty-five (45) days from acceptance of a Service Order by the Company's Customer Care department. Such acceptance shall be indicated by the signature of a representative of such department on the Service Order. The standard service implementation interval for services provided by a third party and either partially or wholly off of the Company's owned and operated network shall be determined on an ICB. The Company shall make reasonable efforts to provide services within its standard service implementation interval or on Customer's Requested Start Date and shall not be liable to pay to the Customer any penalties or damages for Company's failure to meet such standard service implementation intervals.
- 2.4.5 Services shall be deemed to begin on the date the Company issues notice that service is available (the "Actual Start Date"), unless the Company receives written notice from the Customer within three (3) business days after the Company's issuance of notice that service is available, stating that the service is in material non-compliance with applicable technical specifications.
- 2.4.6 Customers may request a delay in the Actual Start date of a Service Order provided that (i) a written delay request is provided to Company no later than 5 business days prior to the Requested Start Date or the delayed Requested Start Date, as the case may be, and (ii) the aggregate number of days requested by such delay request or requests do not exceed 30 calendar days from the Service Order's original Requested Start Date. At the expiration of such 30 day period, the Customer may no longer delay the Actual Start Date of such Service Order, and Company may begin billing as of such date.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.5     Limitations on Liability**

- 2.5.1   Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including, but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representatives, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of Outage Credits to the Customer for interruptions in service as set forth in section 2.15 of this Tariff.
- 2.5.2   Except for the extension of Outage Credits to the Customer for interruptions in service, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including but not limited to any act or omission, failure to perform, delay, interruption, failure to provide any service, or any failure or breakdown of facilities associated with the service.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.5 Limitations on Liability (cont'd)

2.5.3 The Company shall not be liable for any claims for loss or damages involving:

- A. Any act or omission of: (a) the Customer; (b) any other entity furnishing service, equipment, or facilities for use in conjunction with services or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;
- B. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars, or other civil disturbances; strikes, lockouts, work stoppages, or other labor difficulties; criminal actions taken against the Company; unavailability, failure, or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation, or other action of any governing authority or agency thereof;
- C. Any unlawful or unauthorized use of the Company's facilities and services;

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.5    Limitations on Liability (cont'd)**

2.5.3    The Company shall not be liable for any claims for loss or damages involving (cont'd):

- D.    Libel, slander, invasion of privacy, or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;
- E.    Breach in the privacy or security of communications transmitted over the Company's facilities;
- F.    Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in this Tariff.
- G.    Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.5    Limitations on Liability (cont'd)**

2.5.3    The Company shall not be liable for any claims for loss or damages involving (cont'd):

- H.      Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- I.      Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company; or
- J.      Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this Tariff.

2.5.4    The Company and the Customer shall defend, indemnify and hold harmless the other against and from any and all claims for property damage, physical personal injury or wrongful death to the extent that such arises out of the negligence or willful misconduct of the respective indemnifying party, its employees, agents, or contractors in connection with the provision or use of service or other performance.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.5 Limitations on Liability (cont'd)

2.5.5 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN. THE OUTAGE CREDITS REMEDY SET FORTH IN SECTION 2.15 IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO CUSTOMER AND IS IN LIEU OF ALL OTHER REMEDIES.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)****2.5    Limitations on Liability (cont'd)**

2.5.6 Customers shall make all arrangements with copyright holders, music licensing organizations, performers' representatives or other parties for necessary authorizations, clearances or consents with respect to transmission contents ("Consents"). Customers shall indemnify and hold harmless the Company and Providers (as defined below) against and from any court, administrative or agency action, suit or similar proceeding, whether civil or criminal, private or public, brought against Providers arising out of or related to the contents transmitted hereunder (over Company's network or otherwise) including, but not limited to, claims, actual or alleged, relating to any violation of copyright law, export control laws, failure to procure Consents, failure to meet governmental or other technical broadcast standards, or that such transmission contents are libelous, slanderous, an invasion of privacy, pornographic, or otherwise unauthorized or illegal. Providers shall be defined to include the Company, any third party or affiliated provider, operator or maintenance/repair contractor of facilities employed in connection with the provision of services under this tariff. The Company may terminate or restrict any transmissions over the network if, in its judgment, (a) such actions are reasonably appropriate to avoid violation of applicable law; or (b) there is a reasonable risk that criminal, civil or administrative proceedings or investigations based upon the transmission contents shall be instituted against Providers. Customer agrees not to use services for any unlawful purpose, including without limitation any use which constitutes or may constitute a violation of any local, state or federal obscenity law.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.6     Testing and Adjusting**

Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such test, adjustments, or inspections.

**2.7     Provision of Equipment and Facilities**

2.7.1   The Customer has sole responsibility for installation, testing and operation of facilities, services and equipment ("Customer Facilities") other than those specifically provided by the Company as part of the services described in a Service Order. In no event will the untimely installation or non-operation of Customer Facilities relieve Customer of its obligation to pay charges for service after the Actual Start Date.

2.7.2   Any equipment provided by the Customer must be itemized on a schedule listing all such Customer-provided equipment and appended to the Service Order to which use of that equipment relates ("Customer Equipment Inventory"). The Company shall not be obligated to provide service if the Customer will be providing any of its own equipment unless and until such equipment is itemized on the applicable Customer Equipment Inventory.

2.7.3   Title to all facilities provided by the Company, its agents, contractors, or suppliers in accordance with this tariff remains in the Company, its agents, contractors, or suppliers.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.8    Special Construction**

Subject to the arrangement of the Company and to all of the regulations contained in this Tariff, special construction of facilities may be undertaken on a reasonable effort basis at the request of the Customer. Special construction charges will be determined as described herein on an ICB. Special construction is that construction undertaken:

- 2.8.1    where facilities are not presently available, and there is no other requirement for the facilities so constructed;
- 2.8.2    of a type other than that which the Company would normally utilize in the furnishing of its services;
- 2.8.3    over a route other than that which the Company would normally utilize in the furnishing of its services;
- 2.8.4    in a quantity greater than that which the Company would normally construct;
- 2.8.5    on an expedited basis;
- 2.8.6    where a change in service is made after the service has been installed;
- 2.8.7    on a temporary basis until permanent facilities are available;
- 2.8.8    involving abnormal costs; or
- 2.8.9    in advance of its normal construction.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.9     Prohibited Uses**

- 2.9.1   The services the Company offers shall not be used for any unlawful purpose or for any use which the Customer has not obtained all required governmental approvals, authorization, licenses, consents, and permits.
- 2.9.2   The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offering complies with relevant laws and regulations, policies, orders, and decisions.
- 2.9.3   The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- 2.9.4   A Customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights or obligations associated with the service without the written consent of the Company. Any such assignment or transfer of Customer's rights or obligations without such consent shall entitle the Company to terminate service, at its option, upon ten (10) days' prior written notice to Customer.

**2.10    Customer Premises Provisions**

- 2.10.1   The Customer shall provide the personnel, power, and space required to operate all facilities and associated equipment installed on the premises of the Customer.
- 2.10.2   The Customer shall be responsible for providing Company personnel access to premises of the Customer at any reasonable hour for the purpose of testing the facilities or equipment of the Company.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.11 Liability of the Customer**

2.11.1 The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.

2.11.2 To the extent caused by any negligent or intentional act of the Customer as described in 2.11.1, preceding, the Customer shall indemnify, defend, and hold harmless the Company from and against all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees, for (1) any loss, destruction or damage to property of any third party, and (2) the death of or injury to persons, including, but not limited to, employees or invitees of either party, and (3) any liability incurred by the Company to any third party pursuant to this or any other tariff of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.

**2.12 Customer Equipment and Channels**

**2.12.1 Interconnection of Facilities**

- A. Customer provided terminating equipment such as CSUs, multiplexers, and other terminating equipment may, at the Customer's request, be provided by the Customer, at the Customer's expense. Carrier makes no guarantees or warranties as to the performance of Customer provided equipment.
- B. In the event the Customer should desire to collocate Customer owned equipment in a facility owned (or leased) and operated by the Company for the purpose of interconnecting the Customer owned equipment with the Company's network, the Customer and Company shall enter into an ICB agreement specifying the terms and conditions relating to such collocation.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)****2.12 Customer Equipment and Channels (cont'd)****2.12.2 Inspections**

The Company may, upon notification to the Customer, at a reasonable time, make such tests and inspections as may be necessary to determine that the requirements regarding the equipment and interconnections are being complied with in respect to the installation, operation and maintenance of Customer-provided equipment and in the wiring of the connection of Customer channels to Company-owned facilities.

**2.13 Customer Deposits****2.13.1 General**

- A. To safeguard its interests, the Company may, at any time prior to or after the Actual Start Date, require a Customer to post a deposit or irrevocable letter of credit, at the Company's option, to secure the Customer's payment for the term of the service requested.
- B. When a service is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance will be refunded. Before the service is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account. If the amount of the deposit is insufficient to cover the balance due to the Customer's account, the Company retains the right to collect any amounts owing after the deposit has been applied plus any costs related to the collection of any remaining balance.
- C. Deposits held will accrue at an annual interest rate of two (2) percent per annum without deductions for any taxes on such deposits. Interest will not accrue on any deposit after the date on which reasonable effort has been made to return it to the Customer.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.13 Customer Deposits (cont'd)

2.13.2 Failure to Post a Deposit

Should a Customer fail to post a deposit or letter of credit as may be required by the Company within fifteen (15) days of the Company's notice of such a requirement, or should the Customer fail to abide by the terms of any letter of credit or deposit agreement, the Company may deny service prior to the Requested Service Date or terminate service after the Actual Start Date upon 60 days' notice to the Customer.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.14 Payment Arrangements

2.14.1 Payment for Service

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

A. Taxes

The Customer is responsible for payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated) (excluding taxes on the Company's net income) imposed on or based upon the provision, sale or use of the Company's services by Customer.

B. Universal Service Contributions

The Company shall recover from the Customer any contributions the Company is required to make as a result of the service provided to the Customer to any state or federal fund established to further universal access, telecommunications relay services, local number portability or similar government sanctioned funding mechanisms. In the event that any of the service provided to the Customer is exempt from such contribution requirements, the Customer shall provide, in a manner requested by the Company, documentation evidencing such exemption.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.14 Payment Arrangements (cont'd)

2.14.2 Billing and Collection of Charges

The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

- A. Non-recurring charges service are billed following receipt of the service by the Customer and are due and payable within 30 days after the date of the invoice ("Due Date").
- B. The Company shall present invoices for Recurring Charges monthly to the Customer, in advance of the month in which service is provided, and Recurring Charges shall be due and payable with 30 days after the date of the invoice ("Due Date"). When billing is based upon Customer usage, usage charges will be billed monthly for the preceding billing period.
- C. When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have 30 days. Prorated charges are billed following receipt of service and are due and payable within 30 days after the date of the invoice ("Due Date").

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)****2.14 Payment Arrangements (cont'd)****2.14.2 Billing and Collection of Charges (cont'd)**

- D. Billing of the Customer by the Company will begin on the Actual Start Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Actual Start Date may be postponed if (i) the Customer provides the Company a written delay request no later than five (5) business days prior to the Requested Start Date, and (ii) the aggregate number of the days requested by such delay request does not exceed thirty (30) calendar days from the Service Order's original Requested Start Date. At the expiration of such thirty (30) day period, the Customer may no longer delay the Actual Start Date of such Service Order and the Company may begin billing as of such date.
- E. The Company may make billing adjustments for a period of two (2) years after the Due Date of an invoice, or two (2) years after the date a service is rendered, whichever is later.
- F. If any portion of the payment is received by the Company after the Due Date, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:
  - 1) a rate of 1.5 percent per month; or
  - 2) the highest interest rate which may be applied under state law for commercial transactions, which shall accrue from the Due Date.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.14 Payment Arrangements (cont'd)

2.14.3 Billing Disputes

A. General

All bills are presumed accurate, and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within 30 days of the Due Date. For the purposes of this section, "notice" is defined as written notice to the Company, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific items on the bill being disputed. Such notice may be sent to the Company by calling, toll free, 1- 866-724-2605, or by writing to: Mosaic Networkx, LLC, 454 Las Gallinas Avenue, Suite 145, San Rafael, CA 94903.

B. Late Payment Charge

- 1) The undisputed portions of the bill must be paid by the Due Date to avoid assessment of a late payment charge.
- 2) In the event that a billing dispute is resolved by the Company in favor of the Customer, any disputed amount withheld pending resolution of the billing dispute shall not be subject to the late payment charge, and the Customer shall receive an adjustment on its next bill.
- 3) In the event that a billing dispute is resolved in favor of the Company, the Customer shall pay the late payment charge.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.14 Payment Arrangements (cont'd)

2.14.3 Billing Disputes (cont'd)

C. Unresolved Billing Disputes

If notice of the disputed charge(s) is received by the Company within 30 days of the Due Date, the Customer may take the following course of action.

- 1) First, the Customer may request and the Company will provide an in-depth review of the disputed amount.
- 2) Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

Arizona Corporation Commission – Consumer Services Division  
Web: [www.azcc.gov](http://www.azcc.gov)

Phoenix Office:

1200 West Washington Street  
Phoenix, AZ 85007-2927  
Telephone: (800) 222-7000

Tucson Office:

400 West Congress Street  
Tucson, AZ 85701-1347  
Telephone: (800) 535-0148

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.14 Payment Arrangements (cont'd)**

**2.14.4 Suspension of Service for Cause**

- A. In the event payment in full is not received from Customer on or before 60 days following the date of the invoice, the Company may suspend all or any portion of service to the Customer. The Company shall exercise this suspension by providing Customer with a minimum of 10 days' written notice specifying the past due amount and the services to be suspended. If Company receives the entire past due amount within the 10 day notice period, then Customer's service will not be suspended.
- B. If only a portion of the service is initially suspended pursuant to the Company's written notice, and Customer fails to pay the specified past due amount within an additional ten (10) days after the partial suspension of service, then after the additional ten (10) day period, Company may suspend all or any additional portion of the service, with no additional written notice. Further, after the additional ten (10) day period, Company may continue suspension until such time as Customer has paid in full all charges then due, including any late fees as specified herein. Following such payment, Company shall reinstate Customer's services, subject to the Company's right to require the Customer to post a deposit or irrevocable letter of credit as specified in section 2.13 of this tariff.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.14 Payment Arrangements (cont'd)**

**2.14.4 Suspension of Service for Cause (cont'd)**

- C. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 30 days prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- D. In the event of fraudulent use of the Company's network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs. The Customer will also be responsible for payment of any reconnection charges.
- E. Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.
- F. Upon the Company's discontinuance of service to the Customer under this section, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at six (6) percent).
- G. Except for suspension of service pursuant to section 2.14.4(E), preceding, suspension of service shall not affect the Customer's obligation to pay for the service.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)****2.14 Payment Arrangements (cont'd)****2.14.5 Ancillary Services and Charges**

Any ancillary services and charges not described in this section will be considered special requests and will be handled on an ICB.

**A. Order Change Charge – Change of Service Date**

If a Customer desires to change the date on which Customer has requested that service be available, other than a request to expedite service pursuant to Section 2.8.5, Customer may be charged an Order Change Charge. Such charge will not apply to the Customer's first change of service date request, as long as such request is made more than fifteen (15) business days prior to the original Requested Start Date. If Customer makes a second change of service date request, or such change is requested less than fifteen (15) days prior to the original Requested Service Date, Customer will be charged an Order Change Charge. Customer will also be charged for any charges incurred by the Company from third party providers as a result of Customer's request for change of service date.

**B. Order Change Charge – Change of Information in a Service Order**

If a Customer requests a change to the information contained in a Service Order (other than a change of service date) prior to completion of installation of the Service, Customer may incur an Order Change Charge. No Order Change Charge will be incurred, however, if such requested change is administrative in nature (i.e., billing address, contact information, etc.).

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.14 Payment Arrangements (cont'd)

2.14.5 Ancillary Services and Charges (cont'd)

C. Cancellation of Service Order

If Customer desires to cancel a Service Order prior to installation and acceptance of the service, Customer will be assessed an Order Cancellation Charge as well a charge to reimburse the Company for any out of pocket expenses incurred by the Company in preparation to provide the service. Out of pocket expenses include but are not limited to the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.15 Outage Credits for Interruptions in Service**

**2.15.1 General**

- A. An Outage Credit will be given when service is interrupted in a duration equal to or greater than two (2) consecutive hours, except as specified below. For DS-3 and Optical SONET service, an interruption occurs when there has been a loss of signal or when two consecutive 15 second loop-back tests confirm the observation of a bit error rate equal to or worse than  $1 \times 10^{-6}$ .
- B. An interruption period begins upon the earlier of the Company's actual knowledge of the interruption or the Company's receipt of notice from the Customer of the interruption. An interruption period ends when the service, facility or circuit is operative.
- C. A Customer shall be entitled to an Outage Credit upon the Company's receipt of the Customer's written request for such Outage Credit.
- D. The Outage Credit shall be in the amount of 1/720 of the monthly recurring charge for the service for each hour in excess of the first two (2) consecutive hours that the service is interrupted.
- D. All Outage Credits shall be credited on the Customer's next monthly invoice for the affected service.
- E. The Outage Credit as set forth in this section shall be the sole and exclusive remedy of a Customer in the event of any interruption.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.15 Allowances for Interruptions in Service (cont'd)

2.15.2 Limitations of Outage Credits

No Outage Credit will be made for any interruption in service that is:

- A. Of a duration of less than two (2) consecutive hours;
- B. Caused by the Customer or others authorized by the Customer to use the service;
- C. Due to scheduled maintenance where the Customer has been notified of the scheduled maintenance in advance;
- D. Caused by an interruption or failure on another carrier's network connected to the service of the Company;
- E. Due to the failure of power, facilities, equipment, systems, connections, or services not provided by the Company;
- F. Due to circumstances or causes beyond the control of the Company; or
- G. During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.16 Cancellation of Service**

**2.16.1 Cancellation of Service**

Once the Actual Start Date has passed and the Customer has accepted the service, the Customer must pay for the service as indicated on the Service Order through the term indicated on such Service Order, regardless of whether the Customer is actually using the service, provided that upon thirty (30) day's prior written notice, either the Customer or the Company may, without any cancellation of service liability, cancel the affected portion of any service if the Company is prohibited by governmental authority from furnishing, or the Customer is prohibited from using such portion, or if any material rate or term contained in this tariff and relevant to the affected portion of any service is substantially changed by order of the Commission, the Federal Communications Commission, the highest court of competent jurisdiction to adjudicate the matter, or other local, state or federal government authority.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

**2.17 Customer Liability for Unauthorized Use of the Network**

**2.17.1 Unauthorized Use of the Network**

- A. Unauthorized use of the Network occurs when: (1) a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this Tariff; or (2) a person or entity that otherwise has actual, apparent, or implied authority to use the Network, makes fraudulent use of the Network to obtain the Company's services provided under this Tariff, or uses specific services that are not authorized.
- B. The following activities constitute fraudulent use:
  - 1) Using the Network to transmit a message, locate a person, or otherwise give or obtain information, without payment for the service;
  - 2) Using or attempting to use the Network with the intent to avoid payment, either in whole or in part, of any of the Company's tariffed charges by either rearranging, tampering with, or making connections not authorized by this Tariff to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid number, false credit devices or electronic devices;
  - 3) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices, or electronic devices to defraud or mislead callers.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.17 Customer Liability for Unauthorized Use of the Network (cont'd)

2.17.1 Unauthorized Use of the Network (cont'd)

- C. Customers are advised that use of telecommunications equipment and services, including that provided under this Tariff, carries a risk of various forms of telecommunications fraud (including, but not limited to, toll and PBX fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorization codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this Tariff.

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**SECTION 2 - RULES AND REGULATIONS (Cont'd)**

2.17 Customer Liability for Unauthorized Use of the Network (cont'd)

2.17.2 Liability for Unauthorized Use

- A. Except as provided for elsewhere in this Tariff, the Customer is responsible for payment of all charges for services provided under this Tariff furnished to the Customer or User. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by Users or other third parties, the Customer's employees, or the public.
- B. The Customer is liable for all costs incurred as a result of unauthorized use of the Network, including service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary, or punitive charges.
- C. The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.

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**SECTION 3 – DESCRIPTION OF SERVICE****3.1    General**

Customers may order from the Company private line telecommunications transport services, subject to availability. The term “services” used in this section refers only to such intrastate telecommunications transport services between two locations traversing the Company’s end points each of which originate or terminate at a Customer’s or the Company’s designated location, unless otherwise stated in this tariff. Any service provided over a third party’s facilities, arranged for the Customer by the Company, may be provided on an ICB.

**3.2    Private Line Service****3.2.1.    Description**

- A.    Private Line Service is provided on a point-to-point basis between Customer-designated and/or Company-designated premises, points of presence, offices, and/or wire centers.

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**SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)**

**3.2 Private Line Service (cont'd)**

**3.2.1. Description (cont'd)**

- B. Private Line Service is provided only where facilities are available and where the Company can secure acceptable arrangements with underlying suppliers (for resold services), and is further subject to the technical limitations of the digital equipment used by the Company. If such equipment, new facilities or changes to existing facilities are required for the provision of this service, additional charges may apply based on the cost incurred to make the changes.
- C. Private Line Service is furnished on a full-time basis, 24 hours a day, seven days a week.
- D. Private Line Service is available in standard DS1 and DS3 offerings.

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**SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)**

3.2 Private Line Service (cont'd)

3.2.2 Application of Rates and Charges

- A. All appropriate rates and charges specified in other sections of this tariff are in addition to the monthly rates and nonrecurring charges specified in section 4. In addition to any rate or charge established in this tariff, the Customer will also be responsible for any recurring or nonrecurring charges imposed by local exchange telephone companies incurred by or on behalf of the customer in establishing and maintaining service. Such charges may be billed by the Company or directly by the local exchange company, at the Company's option.
- B. The rates for Private Line Service consist of a nonrecurring installation charge, a monthly recurring fixed rate, and a monthly recurring per mile rate measured using V&H coordinates.

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**SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)**

**3.2 Private Line Service (cont'd)**

**3.2.2 Application of Rates and Charges (cont'd)**

- E. Private Line Service rates in effect at the time the service is installed and/or as of the service order application date will be applicable until the expiration of the service commitment period. At the expiration of the Customer's commitment period, the Customer may select a new payment period option at current rates or revert to current rates on a month-to-month basis.
- F. In lieu of the rates otherwise set forth in this tariff, rates and charges, including minimum usage, installation, special construction and recurring charges for the Company services may be established at negotiated rates on an ICB, taking into account the nature of the facilities and services, the costs of construction and operation, the volume of traffic, the length of service commitment by the customer, and use of facilities by other customers. Such arrangements shall be considered special pricing arrangements, the terms of which will be set forth in individual customer contracts. However, unless otherwise specified, the terms, conditions, obligations and regulations set forth in this tariff shall be incorporated into, and become a part of, said contract, and shall be binding on the Company and customer. Such special pricing arrangements will be made available to similarly situated customers on a non-discriminatory basis. The Company will provide notice to the Commission for all special pricing arrangements, including ICB.

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**SECTION 4 – RATES AND CHARGES****4.1    Private Line Service**

<u>Speed</u>	<u>Maximum Pt-Pt</u>	<u>Maximum Hub</u>	<u>Maximum End Link</u>	<u>Maximum Installs</u>
DS-0	\$ 500.00		\$ 350.00	\$ 2,000.00
DS-1	\$ 750.00	\$ 800.00	\$ 500.00	\$ 2,500.00
DS-3	\$ 5,000.00	\$ 4,000.00	\$ 4,000.00	\$ 2,500.00
OC-3	\$ 8,500.00	\$ 7,125.00	\$ 5,700.00	\$ 7,000.00
OC-12	\$22,800.00	\$16,860.00	\$ 12,900.00	\$ 7,000.00
OC-48	\$47,750.00	\$34,445.00	\$23,175.00	\$ 7,000.00
Fast E 10Meg	\$ 4,000.00			\$ 5,500.00
Fast E 100Meg	\$ 5,000.00			\$ 7,000.00
Gige 150	\$ 5,750.00			\$ 5,000.00
Gige 600	\$ 8,000.00			\$ 9,500.00
Gige 1000	\$ 9,500.00			\$12,000.00

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**SECTION 4 – RATES AND CHARGES (Cont'd)****4.2 Ancillary Charges****4.2.1. Order Change Charge**

<u>Speed</u>	<u>Maximum Order Change Charge</u>
DS-0	\$200.00
DS-1	\$400.00
DS-3	\$450.00
OC-3	\$950.00
OC-12	\$950.00
OC-48	\$950.00
Fast E 10Meg	\$950.00
Fast E 100Meg	\$950.00
Gige 150	\$950.00
Gige 600	\$950.00
Gige 1000	\$950.00

**4.2.2 Order Cancellation Charge**

<u>Speed</u>	<u>Maximum Pre-Engineering</u>	<u>Maximum Post- Engineering</u>
DS-0	\$400.00	\$2,225.00
DS-1	\$500.00	\$2,250.00
DS-3	\$1,500.00	\$2,250.00
OC-3	\$1,500.00	\$7,000.00
OC-12	\$4,500.00	\$7,000.00
OC-48	\$4,500.00	\$7,000.00
Fast E 10Meg	\$3,500.00	\$5,500.00
Fast E 100Meg	\$4,500.00	\$7,000.00
Gige 150	\$4,500.00	\$7,000.00
Gige 600	\$3,750.00	\$8,500.00
Gige 1000	\$5,000.00	\$12,000.00

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## **ATTACHMENT C**

### **Legal Notice and Affidavit of Publication**

Publication arranged following notice from the Hearing Division

## **ATTACHMENT D**

### **Financial information Included as "Attachment D"**

Provide the Applicant's financial information for the two (2) most recent years.

1. A copy of the Applicant's balance sheet.
2. A copy of the Applicant's income statement.
3. A copy of the Applicant's audit report.
4. A copy of the Applicant's retained earnings balance.
5. A copy of all related notes to the financial statements and information.

Includes current calendar year or current year reporting period.

10:01 AM  
02/10/10  
Accrual Basis

**Mosaic Networx, LLC**  
**Balance Sheet**  
As of December 31, 2009  
Dec 31, 09

**ASSETS**

**Current Assets**

Total Checking/Savings	746,850.98
Total Accounts Receivable	202,339.68

Total Other Current Assets	108,460.98
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Total Current Assets	1,057,651.64
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Total Fixed Assets	41,404.26
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**Other Assets**

Total Assets	17,500.00
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Total Other Assets	17,500.00
--------------------	-----------

TOTAL ASSETS	1,116,555.90
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**LIABILITIES & EQUITY**

**Liabilities**

Total Current Liabilities	634,733.39
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Total Long Term Liabilities	177,989.26
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Total Liabilities	812,722.65
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Total Equity	303,833.25
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TOTAL LIABILITIES & EQUITY	1,116,555.90
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10:00 AM  
02/10/10  
Accrual Basis

**Mosaic Networkx, LLC**  
**Profit & Loss**  
January through December 2009

	<u>Jan - Dec 09</u>
Ordinary Income/Expense	
Total Income	<u>2,679,768.50</u>
Total COGS	<u>1,552,319.33</u>
Gross Profit	1,127,449.17
Expense	
Total SG&A -Selling, General & Admini	<u>731,590.07</u>
Total Expense	<u>731,590.07</u>
Net Ordinary Income	395,859.10
Other Income/Expense	
Other Income	
Total Other Income	<u>1,170.48</u>
Total Other Income	1,170.48
Other Expense	
Total Depreciation and Amortization	<u>1,613.28</u>
Total Other Expense	<u>1,613.28</u>
Net Other Income	<u>-442.80</u>
Net Income	<u><u>395,416.30</u></u>

## **EXHIBIT A**

### **Management Resumes**

#### **Brian Erickson**

Brian Erickson is President of Mosaic Networx LLC. Prior to starting Mosaic in 2007 Mr. Erickson was an Executive Director responsible for Wholesale services at MCI/Verizon. Mr. Erickson has a proven track record of accomplishments within the industry and over 18 years of industry experience at the combined companies; Centex, MFS, WorldCom, MCI and Verizon. During his tenure Mr. Erickson was responsible for building out state of the art networks for Fortune 100 and Carrier Wholesale clients.

Mr. Erickson attended California State University in Sacramento where he earned his BS degree in Business Administration and Marketing.

#### **Matt Hiles**

Matt Hiles is Managing Partner and Executive Vice President of Mosaic NetworX, LLC. Prior to joining Mosaic NetworX, LLC in early 2008, Mr. Hiles was the Director of Business Development at Looking Glass Networks responsible for both Enterprise and Wholesale revenues. He was also instrumental in the creation and development of asset-based, network infrastructure projects around the country. Mr. Hiles has an established record of success within the telecommunications and data center industries spanning nearly 20 years. During his career, he has held executive and leadership positions at Allnet Communications, MFS, WorldCom, Level 3, and DCI Technology Holdings.

Mr. Hiles attended Harvard University in Cambridge, MA, where he earned an ALB degree in Government - US/Soviet Relations.